



4410-15

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Amendment to Consent Judgment
under the Safe Drinking Water Act

On April 17, 2018, the Department of Justice lodged a proposed amendment to the 2016 Consent Judgment (“the Consent Judgment”) with the United States District Court for the Eastern District of New York in the lawsuit entitled *United States v. State of New York et al.*, Civil Action No. 2:16-6989.

In that action, a Consent Judgment settled the United States’ claims for civil penalties and injunctive relief that arose out of Defendants’ operation of Large Capacity Cesspools (“LCCs”) in violation of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h, underground injection control (“UIC”) program, specifically the program’s Class V UIC regulations found at 40 C.F.R. §§ 144.80 to 144.89. The Consent Judgment required Defendants to (1) close the prohibited LCCs, (2) pay of a civil penalty of \$150,000, and (3) perform eight Supplement Environmental Projects (“SEPs”) in seven state parks. The SEPs include various nitrogen reducing projects and have an estimated value of \$1,020,000.

The Amendment to Consent Judgment (“the Amendment”) proposes to modify a constructed wetland SEP that Defendants agreed to perform at Captree State Park, in Suffolk County, New York. The wetland would have primarily provided for treatment of wastewater discharges from the main comfort station and restaurant. Defendants reported that installing the constructed wetland SEP at Captree State Park (“Captree”) would be unworkable. Defendants report that their data collection at Captree, including delineation of the existing sanitary system, flood hazard areas, environmentally sensitive areas, and available space, indicates that the site cannot accommodate a wetland large enough to treat the waste flow.

Under the Amendment, Defendants would install and operate an alternative waste treatment technology — a Nitrex™ System with requirement for a smaller area in which to operate. Further, the Nitrex™ system SEP at Captree would operate at the same location, and would treat the same sanitary waste streams — those emanating from the main comfort station and a restaurant. It is estimated that the Nitrex™ system SEP will reduce discharges at Captree by approximately 378 pounds per year, which is 40 additional pounds of nitrogen reduction compared with the estimated reduction from the constructed wetland SEP. The Nitrex™ system SEP also will disturb less of an adjacent shoreline. Additionally, under the Amendment, the SEP offers a public educational component to demonstrate the nitrogen cycle and environmental benefits of nitrogen removal.

The publication of this notice opens a period for public comment on the Consent Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. State of New York*, D.J. Ref. No. 90-5-1-1-11400. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Consent Judgment may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Consent Judgment upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library
U.S. DOJ – ENRD
P.O. Box 7611
Washington, D.C. 20044-7611

Please enclose a check or money order for \$18.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is \$10.25.

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Environment and Natural Resources Division.

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